

Abby—and his 10 children and grandchildren for “sharing” him with Congress and the Nation for a public service career spanning half a century. Senator BLUNT has made his mark, and we are all better for it.

HORSERACING INTEGRITY AND SAFETY ACT

Mr. GRASSLEY. Madam President, in the early hours of Tuesday morning, we were given the text to the omnibus appropriations bill. With the end of the year fast approaching, everyone is trying to get this bill signed into law quickly. That is true even if it has not been fully reviewed and every consequence thought out.

We saw this 2 years ago, when the omnibus was included with COVID-relief funding, within the 2020 omnibus was the Horseracing Integrity and Safety Act.

Prior to this 2020 act becoming law, with no process and no opportunity to debate the merits of the act, horseracing was regulated by States, and Congress had no role on how the industry was regulated.

What this 2020 bill did was impose a one-size-fits-all Federal regulatory approach on all States, from Iowa to Kentucky, to West Virginia, to New York. This is a bill that had never gone through the committee process, but it managed to end up in the omnibus.

As a result of this hasty lawmaking, last month, we saw the Fifth Circuit Court of Appeals strike down the law on the grounds that the act is unconstitutional. Regular order in the Senate, especially through committee process, would have prevented this unconstitutional language.

This did not come as a surprise. It was clear that the private nonprofit Horseracing Authority created in the 2020 omni wielded nearly unlimited Federal rulemaking authority and answered to no one, not even the President of the United States.

The court ruled that the power of the Federal Government can be wielded only by the Federal Government, not private entities like the “Authority.”

For months I have worked with horsemen in Iowa and my colleagues in the Senate to address the obvious failures with implementation of this law since it went into effect earlier this year.

I specifically asked the FTC about the extent of its oversight of the FTC, a key factor for the Fifth Circuit’s ruling.

The FTC response was simple. It said it did not have any oversight over the “Authority.” This is clearly unconstitutional and is inconsistent with conservative principles of small government and reigning in the Federal bureaucracy.

Now that the courts have found HISA unconstitutional, Congress should work a fix through the regular committee process to avoid the pitfalls of the previous legislation.

But that is not what is happening today. In the 2022 omni once again, the special interests that invented the unconstitutional “Authority” in the first place have convinced their supporters a quick fix is needed in this omnibus. The same people who pushed the unconstitutional “Authority” through in an end of year omnibus are once again forcing legislation without any input from Senators like me.

This fix to the unconstitutional Federal rulemaking power wielded by the “Authority” is included on page 1,930. How many members of Congress even know that this is included? Probably very few.

I have since introduced an amendment that would strike this text with Senator MANCHIN. Since then numerous offices reached out to find out what this is—and once they do—have expressed the same opposition to this becoming law that I have.

This is just one example of which there are many, of legislating on an omnibus. It lets a select few Members, or in this case just one Member, of leadership create new Federal regulatory frameworks for entire industries.

I support ensuring safe, humane horseracing. But I also support small tracks, like Prairie Meadows in Iowa, which don’t have the billionaires backing like those in States that host Triple Crown races.

And I am not alone because most other States have tracks like Prairie Meadows.

Instead of governing this way, Congress should work with State racing commissions to regulate horseracing in a responsible way to ensure racetrack safety and the economic viability of small tracks across the country.

I will work with any Senator who is willing to stand up for small tracks in the next Congress and fix this broken way of governing.

ELECTORAL COUNT REFORM AND PRESIDENTIAL TRANSITION IMPROVEMENT ACT

Ms. COLLINS. Madam President, the Consolidated Appropriations Act of Fiscal Year 2023 includes the reforms of the Electoral Count Reform and Presidential Transition Improvement Act, a bill I coauthored with Senator JOE MANCHIN of West Virginia. This bipartisan legislation has 39 cosponsors, including Senate Leaders CHUCK SCHUMER and MITCH MCCONNELL and Senate Rules Committee Chairman AMY KLOBUCHAR and Ranking Member ROY BLUNT. The bill was favorably reported out of the Senate Rules Committee by a vote of 14-1.

The Electoral Count Reform and Presidential Transition Improvement Act would reform and modernize the outdated Electoral Count Act of 1887 to ensure that electoral votes tallied by Congress accurately reflect each State’s vote for President. In addition to my prior remarks about the reforms

this bill makes to the Electoral Count Act, it is important that the CONGRESSIONAL RECORD reflect the purposes and intended implementation of these reforms, which were made by a bipartisan working group of Senators led by me and Senator MANCHIN. Our legislation amends title 3, United States Code, to reform the Electoral Count Act of 1887, and amends the Presidential Transition Act of 1963. Title I of the bill, described in the following analysis, contains the Electoral Count Reform Act.

Sec. 101. Short Title. This section designates the name of the bill as the “Electoral Count Reform Act of 2022.”

Sec. 102. Time for Appointing Electors. This section streamlines section 1 of title 3, United States Code, requiring that the electors of President and Vice President be appointed in each State on election day, in accordance with the laws of the State enacted prior to that date. The phrase “in accordance with the laws of the State enacted prior to election day” forecloses any opportunity that a subsequent day could be selected for choosing a State’s electors or taking other post hoc actions.

This section also repeals section 2 of title 3, often referred to as the “failed election” provision, which states that “[w]henver any State has held an election for the purpose of choosing electors, and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such a manner as the legislature of such State may direct.” The phrase “failed to make a choice” is not defined in law. Since its enactment in 1845, this provision has never been used, and it was a source of uncertainty during the Presidential elections of 2000 and 2020. In striking this provision, our legislation ensures that Congress does not authorize any State to declare an election “failed” when the outcome is undesirable.

The authors of this bill recognize that there may be exceedingly rare circumstances in which a State may truly be unable to conduct its election on the day designated by law. Such rare circumstances are understood to include catastrophic natural disasters, terrorist attacks, or similar calamities. The definition of election day in the new legislation allows a State to modify the period of voting in a popular election “as necessitated by force majeure events that are extraordinary and catastrophic, as provided under laws of the State enacted prior to such day.” Such circumstances are so rare that they have yet to arise in our Nation’s history, thus this provision was included with the understanding that such an event requiring its use would be unprecedented in nature.

This provision contains several Federal restrictions: No. 1, the events must be necessitated by force majeure events that are extraordinary and catastrophic, No. 2, the processes for modifying the period of election must be established by the State prior to election